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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/578,132	05/24/2000	Rainer H Wischinski	SAA-39	5531

46901 7590 04/06/2005

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EXAMINER

PHAM, THOMAS K

ART UNIT	PAPER NUMBER
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2121

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/578,132

Applicant(s)

WISCHINSKI, RAINER H

Examiner

Thomas K Pham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Response to Amendment

1. This action is in response to request for re-consideration filed on 12/23/2004.
2. New claims 8-14 filed by the applicant have been entered. However, examiner interprets that the new claims are considered similar to the original 1-7 claims, therefore, same rejections are applied to claims 8-14. It should be noted that by a device or devices does not make a different to the scope of the claims.
3. Claims 1-14 have been considered but they are not persuasive.

Quotations of U.S. Code Title 35

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim Rejections - 35 USC § 103

6. Claims 1-3, 5-7, 8-10 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication 2002/0029086 ("Ogushi") in view of U.S. Patent no. 6,230,199 ("Revashetti").

Regarding claims 1 and 8

Ogushi teaches a system for remote configuration monitoring of an industrial control system (abstract), the system comprising: a device identifier (fig. 1, element 108), for determining components of an automation or control device(s) (fig. 1, elements 106) included in the industrial control system but does not teach a device identifier periodically querying the device(s) to obtain from the device information identifying at least some of its component hardware, software, and firmware, the device identifier for providing a device database with component identifications for the device(s); and a device configuration manager, responsive to the component identifications in the device database, and further responsive to available device components in a database of available device components, for comparing the installed device components with the available device components and for providing an offer to upgrade installed device components. However, Revashetti teaches method and system for actively marketing products and services with an opportunity detection object (a device identifier) periodically querying by scanning the client computer to obtain from the client computer information identifying at least some of its component hardware, software, and firmware, the device identifier for providing an inventory database with component identifications for the client computer (col. 6 lines 55-67, "the opportunity detection object 216 ... of the client computer 208"); and an opportunity detection object 216 (device configuration manager), responsive to the component identifications

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in the product information database 212, and further responsive to available product components in a database of available device components, for comparing the installed configuration components with the available product components (col. 7 lines 1-14, “If the scan method 218 ... records information for the match”) and for providing an offer to upgrade installed product components (col. 7 lines 15-25, “The presentation method 222 analyzes ... service provider computer system 206”) for the purpose of marketing software, hardware, and related products to users of computer systems based upon the user’s current computer environment configuration. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the marketing system of Revashetti with the industrial system of Ogushi because it would provide for the purpose of marketing software, hardware, and related products to users of computer systems based upon the user’s current computer environment configuration.

Regarding claims 2 and 9

Ogushi teaches a system diagnostics manager, responsive to the component identifications in the product information database of Revashetti, and further responsive to a third party technical support and diagnostics information database, for providing device status queries, and for updating the diagnostics information database based on responses to the device status queries (see Ogushi, page 2 paragraph 27, “the host computer 107 ... report of the status information”).

Regarding claims 3 and 10

Ogushi teaches the components of pre-determined automation or control devices are programmable logic controllers (page 2 paragraph 31 and 32, “The host computer 108 ... factories 102 to 104”).

Regarding claims 5 and 12

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Revashetti teaches a general technical information database, for providing general technical information about products organized by topic, and further wherein the general technical information made about a topic, thereby providing feedback on the usability of products (col. 16 lines 8-25, "Related product marketing information ... an existing or related product").

Regarding claims 6 and 13

Revashetti teaches the record of requests for information made about a topic includes an identification of the requester (col. 16 lines 25-36, "A related product may ... Connected Organizer").

Regarding claims 7 and 14

Revashetti teaches the device identifier queries the devices via the Internet (fig. 2, element 204).

7. Claims 4 and 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ogushi in view of Revashetti and further in view of U.S. Patent No. 6,122,639 ("Babu").

Regarding claims 4 and 11

Ogushi and Revashetti teach a system for remote configuration monitoring but do not teach the communication via a wireless access protocol. However, Babu teaches a wireless link can be implemented to provide a two-way data communication (col. 22 lines 6-20, "Computer system 500 ... various types of information") for the purpose of sending and receiving electrical, electromagnetic or optical signals that carry digital data streams representing various types of information. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the wireless communication interface of Babu with the system of Ogushi and Revashetti because it would provide for the purpose of sending and receiving

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electrical, electromagnetic or optical signals that carry digital data streams representing various types of information.

Response to Arguments

In the remark the applicant argues that cited reference fails to disclose:

- 1) “an industrial automation system”.
- 2) “an automation or control device”.
- 3) “a device identifier for determined components of an automation or control device”.
- 4) “periodically querying an automation or control device”.
- 5) “a device database with component identifications for an automation or control device”.
- 6) “a device configuration manager responsive to a database with component identifications for an automation or control device”.
- 7) “a device configuration manager further responsive to a database of available components of an automation or control device”.
- 8) “a device configuration manager for comparing components installed in an automation or control device with available components for an automation or control device”.
- 9) “a device configuration manager that provides an offer to upgrade components installed in an automation or control device”.
- 10) “there is no incentive or motivation to combine the references”.

In response to applicant’s argument,

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- 1) Prior art Ogushi (U.S. Publication 2002/0029086) teaches an industrial automation system (see abstract).
- 2) Ogushi teaches an automation or control device (see abstract and FIG. 1).
- 3) Ogushi teaches FIG. 1 with hosts 107 and 108 are device identifiers. Hosts 107 identify any of the industrial equipments 106 (see page 2 paragraph 23). And host 108 identifies all the devices including the hosts 107 and the equipments 106 (see page 2 paragraph 25).
- 4) Prior art Revashetti (USPN 6,230,199) teaches periodically scanning (querying) the client configuration (or devices) to obtain from the client computer information identifying at least some of its component hardware, software, and/or firmware (see column 6 lines 55-67).
- 5) Revashetti teaches product information database 212 contains information of one or more product components (see column 6 lines 13-20).
- 6), 7) and 8) Revashetti teaches an opportunity detection object 216 (device configuration manager), responsive to the component identifications in the product information database 212, and further responsive to available product components in a database of available device components, for comparing the installed configuration components with the available product components (see column 7 lines 1-14).
- 9) Revashetti teaches analyzing the result of comparison with the product information database 211 to advertise to the user for a possible upgrade based on the user installed product components (see col. 7 lines 15-25).
- 10) Yes, there is motivation cited in column 4 lines 24-37, "*The presentation engine ... software applications, hardware items such as additional memory, ... based upon the context of configuration of the user's client computer.*" It appears that applicant is arguing hindsight. All of

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the inventions in the patents are in the field of computer devices. Ravashetti is directed to computer devices in general and thus has broad applicability.

One having ordinary skill in the art would be lead to Revashetti for the purpose or motivation of tracking computer equipments used and the ability to market for providing upgrades to the client(s). This is the precise invention that applicant is claiming. Therefore, the combination of Ogushi and Revashetti is proper.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Thomas Pham*; whose telephone number is (571) 272-3689, Monday to Thursday from 6:30 AM - 5:00 PM EST or contact Supervisor *Mr. Anthony Knight* at (571) 272-3687.

Thomas Pham, Patent Examiner

TP

March 31, 2005



Anthony Knight
Supervisory Patent Examiner
Group 3600